



## Poland

### Country Reports on Human Rights Practices - [2000](#)

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Poland is a parliamentary democracy based on a multiparty political system. Free and fair presidential elections were held in October, resulting in the re-election of President Aleksander Kwasniewski. Executive power is shared by the Prime Minister, the Council of Ministers, and to a lesser extent, the President. The Parliament is bicameral (Senate and Sejm). The Government formed after free and fair elections in 1997 was a two-party coalition composed of the center-right Solidarity Electoral Action (AWS) party anchored by the Solidarity Labor Union and the Centrist Freedom Union (UW), also with origins in Solidarity. The majority government dissolved in June when UW withdrew and five of its ministers resigned; AWS is now a minority government. Parliamentary elections are next scheduled for fall 2001. The judiciary is independent but inefficient.

Internal security forces and the armed forces are subject to effective civilian control by the Government. Since 1996 the civilian Minister of Defense has had clear command and control authority over the military chief of the general staff as well as oversight of military intelligence. Civilian control was reinforced further by a restructuring of the Ministry of Defense and general staff undertaken as part of the country's entry into NATO in April.

After several years of strong growth in the mid-1990's, the economy slowed starting in 1998 as a result of the Russian financial crisis and economic slowdown in the country's largest export markets in Europe. Gross domestic product (GDP) growth dropped to 4.1 percent in 1999 and stayed at this level in 2000. After dropping steadily through the last decade, inflation began increasing again in 1999, climbing as high as 11.7 percent in the summer but dropping to 8.5 percent in December 2000. The ongoing process of restructuring, and increasing numbers of youths entering the labor force, have increased unemployment in recent years. The official unemployment rate was 15 percent at year's end. Since 1989 most small- and medium-sized state-owned enterprises have been privatized, and the Government has launched privatizations of major state-owned enterprises such as insurance, telephone, airline, power generation, petroleum refining, steel, coal, and banks. Significant reforms are underway in other areas as well, including pensions, health, decentralization of government, and education. Still to be addressed are the agriculture sector, a major part of the economy (employing more than 25 percent of the labor force), and lagging development in rural areas.

The Government generally respects the human rights of its citizens; however, problems remain in some areas. Prison conditions are generally poor. A cumbersome legal process, poor administration, and an inadequate budget hamper the court system. Lengthy pretrial detention occurs occasionally. Court decisions frequently are not implemented, particularly those of the administrative courts, and simple civil cases can take as long as 2 or 3 years. As a result, public confidence in the judicial system is low. Many poorly paid prosecutors and judges have left public service for more lucrative employment. The threat of organized crime has provoked legislative responses that raise questions regarding the right to privacy. The Government maintains a large number of wiretaps without judicial review.

There are some marginal restrictions in law and in practice on freedom of speech and of the press. With few exceptions, the Criminal Code provides protection for journalists' sources. Spousal abuse continues to affect many women. Women continue to experience serious discrimination in the labor market and are subject to various legal inequities as a consequence of paternalistic laws. Child prostitution is a problem. There were incidents of desecration of graves in both Jewish and Catholic cemeteries and anti-Semitic graffiti on Jewish buildings. The Government has worked constructively toward resolving issues of concern to the Jewish community. There is some societal discrimination and violence against ethnic minorities. Although the right to organize unions and bargain collectively largely was observed, some employers violated worker rights provided for by law, particularly in the growing private sector. Trafficking in women and children in, to, and

from the country is a problem.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Political and Other Extrajudicial Killing

There were no reports of political killings.

In January 1998, a police officer was charged with the beating death of 13-year-old Przemek Czaja following a basketball game in the Baltic coast city of Slupsk. The officer was sentenced in May 1999 to 6 years in prison. In December 1999, the appeals court increased the sentence to 8 years. The defendant has lodged an appeal to the Supreme Court. At year's end, the defendant was still free on appeal. On March 7, the District Court in Koszalin decided that the defendant should be examined by psychiatrists from the Szczecin Medical Academy.

A police officer indicted in connection with the shooting deaths of two unarmed civilians and the wounding of another in Brodno, a suburb of Warsaw, was sentenced in December 1999 to 7 years in prison. His appeal was pending at year's end.

On October 30, the Lublin Appeals Court sentenced the former Lomaz police chief to 4 1/2 years in prison (originally he was sentenced to 15 years in 1998, but he appealed the decision). The October verdict is final.

Trials related to extrajudicial killings during the Communist period continued in 1999. A new trial began in a Katowice appeals court in October 1999 in the case of 22 riot policemen accused of killing miners during the Communist martial law era after a 1998 appeals court decision annulled their acquittals. In September 1999, the decision of a district court was upheld in the case of the appeal of two officers convicted in 1997 of the 1983 Communist era beating death of Grzegorz Przemyk.

One officer was sentenced to 2 years in prison for participating in the beating, and the other officer was found not guilty of attempting to destroy the file in the case. In November 1999, the Supreme Court ordered a new trial for former Communist leader Wojciech Jaruzelski and nine other officials who allegedly ordered police to shoot workers during the 1970 riots in Gdansk. The Court ruled that the trial that began in the Gdansk provincial court should be started over in the Warsaw district court. No new trial date was set. In December 1999, lawyers representing miners submitted a motion requesting the retrial of former Communist Interior Minister Czeslaw Kiszczak for his role in the pacification of the Wujek mine, but a Katowice district court did not rule on the motion by year's end. In December 1999, the Warsaw regional court ruled that Kiszczak's health made it possible for him (although to a limited degree) to face the court and thus rejected a defense motion to suspend his trial because of poor health. Kiszczak appealed; the trial was still pending at year's end.

On October 30, the retrial began in Warsaw of General Wladyslaw Ciaston, one of the two former Communist Security Services (SB) generals accused (and acquitted in 1994) of having directed the 1984 murder of Father Jerzy Popieluszko. Popieluszko upset the Communist regime during martial law for openly supporting the cause of the then-outlawed Solidarity trade unions in his sermons. He was tortured to death in October 1984 by the secret police at the time and became a martyr and the "patron saint" of Solidarity. In March 1996, the appeal court ordered a retrial. The other accused general was excused from the trial in January of this year for health reasons.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Criminal Code prohibits torture, and there were no reported incidents of it. Unlike in the previous year, there were no reports of police using force to disperse violent protestors or to break up illegal roadblocks.

In June 1998, a Gdansk court indicted 11 riot policemen for their participation in the October 1997 beating of soccer fans attending a match in the town of Gdynia. The officers' activities, which took place before, during, and after the match, both at the stadium and at a nearby bar, were captured on videotape. A civil case against the officers, launched by the father of one of the teenage victims, also was pending. Both civil and criminal cases stemming from the incident were pending at year's end. The civil case against the officers ended during the year; it was suspended pending resolution of the criminal case. Public television was fined \$2,400 (10,000

PLN) and the private television station TVN \$1,200 (5,000 PLN) for airing tapes of the incident. Both stations also must apologize to the victim on their main news programs. Initially the court acquitted the police officers but the prosecutor appealed; the criminal case was still pending at year's end.

Prison conditions are still generally poor, according to reports by nongovernmental organizations (NGO's); overcrowding, damp cells, and a lack of medical treatment are the chief problems. According to a July 1998 report by the National Penitentiary Authority, the prison system is in urgent need of additional funding. Of 156 detention facilities, 100 require considerable renovation. At the same time, the National Penitentiary Authority's annual budget continued to fall; it has declined by approximately 34 percent since 1991. The Ombudsman for Human Rights complained about the safety of prisoners, noting that inmates are often the victims of violent attacks by other prisoners. Civil litigation against the prison administration in the 1996 case of an 18-year-old mentally retarded boy who was beaten and sodomized by fellow inmates was considered by the Bydgoszcz district court in February; the case was still pending at year's end. The Ombudsman also suggested in 1999 that the prison population be reduced, including by decriminalizing certain offenses, pointing out that the ratio of prisoners to rehabilitation officers is very poor.

The Government permits human rights monitors to visit prisons.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government observes this prohibition. Courts rather than prosecutors issue arrest warrants. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. During this period, access to a lawyer normally is limited. Once a prosecutor presents the legal basis for a formal investigation, the law provides for access to counsel. Detainees may be held in pretrial detention for up to 3 months and may challenge the legality of an arrest through appeal to the district court. A court may extend this pretrial confinement period every 3 months for up to 18 months until the trial date. Total time of temporary arrest until the first sentence rendered by the court of lower instance cannot be more than 2 years. However, under certain circumstances, the 2-year period may be extended further by the Supreme Court. Bail is available, and most detainees are released on bail pending trial.

The Government does not employ forced exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. However, the judiciary remains inefficient and lacks resources and public confidence.

The Government continues to restructure the court system in order to streamline and accelerate the legal process. At present there is a four-tiered court and prosecutorial structure. The courts consist of regional, provincial, and appellate divisions, as well as a Supreme Court. These tiers are subdivided further into five parts: Military, civil, criminal, labor, and family. Regional courts are courts of first instance, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious types of offenses. Appellate courts handle appeals tried at the provincial level, and the Supreme Court only handles appeals about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices.

Judges are nominated by the national judicial council and appointed by the President. They are appointed for life and can be reassigned but not dismissed, except by a court decision. The Constitutional Tribunal rules on the constitutionality of legislation. In October 1999, Constitutional Tribunal decisions became final and binding, after a 2-year interim period following the entry into force of the new Constitution during which a two-thirds majority in the Sejm could overrule its decisions.

The court system is cumbersome, poorly administered, overstaffed, and underfunded. There are numerous inefficiencies, most notably the fact that many districts have more criminal judges than prosecutors. These factors contribute to a lack of public confidence. Many effective judges and prosecutors have left public service for the more lucrative private sector. Court decisions frequently are not implemented. Bailiffs normally ensure the execution of civil verdicts such as damage payments and evictions. However, according to some observers, they are underpaid, subject to intimidation and bribery, and have a mixed record of implementing court decisions. Civil and administrative rulings against public institutions such as hospitals often cannot be enforced due to a lack of funds. Simple civil cases can take as long as 2 to 3 years before resolution, and the pretrial waiting time in criminal cases can be several months. The backlog and the costs of legal action appear

to deter many citizens from using the justice system at all, particularly in civil matters such as divorce. The long wait for routine court decisions in commercial matters is an incentive for bribery and corruption.

All defendants are presumed innocent until proven guilty. At the end of a trial, the court renders its decision orally and then has 7 days to prepare a written decision. A defendant has the right to appeal within 14 days of the written decision. Appeals may be made on the basis of new evidence or procedural irregularities.

Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which is the court of first instance. Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney, who is provided at public expense if necessary. Once the defendant is prepared, a trial date is set. Defendants are required to be present during trial and may present evidence and confront witnesses in their own defense. Since 1995 prosecutors have had the authority to grant witnesses anonymity at trial if they express fear of retribution from the defendant. This law, designed to help combat organized crime, impairs defendants' right to confront their accusers. In 1996 reforms were made that provide for a two-level appeal process in most civil and criminal matters; previously, citizens enjoyed access only to a one-step appeal process.

Trials are normally public. However, the courts reserve the right to close a trial to the public in some circumstances, such as divorce cases, trials in which state secrets may be disclosed, or cases whose content might offend "public morality." (See Section 1.f.) The courts rarely invoke this prerogative.

The current Criminal Code and Code of Criminal Procedure went into effect in September 1998. However, in March 1998 the European Court of Human Rights (ECHR) unanimously ruled that a provincial appellate court's examination of the verdict in the presence of the prosecutor, but not the defendant or his representative, infringed on the European Convention on Human Rights provisions concerning fair trial. Article 451 of the Code of Criminal Procedure was amended to take account of all implications of the March 1998 ruling of the ECHR. This amendment came into force on September 1.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy of correspondence; however, the Government maintains, without judicial review or oversight, a large number of wiretaps. There is no legislation that provides for the general right to privacy. However, a 1998 law prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views, or membership in religious, political, or trade union organizations. The law allows for certain exceptions, specifically, the gathering of information without a person's permission by courts, hospitals, or organizations if the information pertains to their members. All exceptions are subject to some restrictions. A few continuing practices (such as a requirement to fill out "creed" or "nationality" items in some questionnaires) became illegal, effective April 1999. Violators of these provisions are subject to imprisonment for up to 3 years. The Ministry of Justice reports that from March 1998 to September of this year, the office of the prosecutor received 324 notifications of crimes pursuant to Articles 49 to 54 of the 1998 Law on Personal Data Protection. Of those, 304 have been closed; the office declined to prosecute 90 cases; 39 cases were referred to the court; and 170 cases were discontinued by the court. In nine cases, the prosecutor recommended conditional discontinuance. There is no record of a conviction obtained in any case.

In response to the growing threat of organized crime and money laundering, Parliament permitted the police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involving serious crimes, narcotics, money laundering, or illegal firearms sales. Under the Criminal Code, the Minister of Justice and the Minister of Interior, both political appointees, must authorize these investigative methods. In emergency cases, the police may initiate an investigation that utilizes wiretaps or the opening of private correspondence at the same time that they seek permission from the ministers. Estimates on the number of wiretapping devices installed annually at the request of the police vary widely; however, a high-ranking public prosecutor in 1998 put the number at 4,000. After interventions by the Human Rights Ombudsman, the Prosecutor General curtailed the number of warrants for wiretapping. Levels are reportedly back at pre-1998 levels, over 4,000.

Parliamentarians and human rights groups expressed concern about the lack of control over this type of surveillance. There is no independent judicial review of surveillance activities, nor is there any control over how the information derived from investigations is used. A growing number of agencies have access to wiretap information, and the Police Code allows electronic surveillance to be used for the prevention of crime as well as for investigative purposes. As is the case under the Criminal Code, police must obtain permission from the Ministers of Justice and Interior before initiating wiretap procedures.

The law forbids arbitrary forced entry into homes. Search warrants issued by a prosecutor are required in order to enter private residences. In emergency cases, when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, in which there is no time to consult with the police commander, police may enter a private residence after showing their official identification. There were no reports that police abused search warrant procedures.

A law on "lustration" or vetting went into effect in November 1998. The law, designed to expose government officials who collaborated with the Communist-era secret police, bans from office for 10 years those caught lying about their past. The law requires officials to provide sworn affidavits concerning their possible cooperation with the secret police; the public interest spokesman (lustration prosecutor) then verifies the affidavits and brings suspected cases of misrepresentation before the lustration court, a special three-judge panel whose decisions may be appealed. Several high-profile cases came before the court during the year, including that of a Deputy Defense Minister who was judged to have lied in his affidavit; the case is currently on appeal. Many of these cases are closed to the public because they involve classified documents. In accordance with the presidential election law, all candidates for the October presidential elections were vetted in August; after some controversy surrounding the lustration of President Kwasniewski and former president Walesa, all passed muster. Critics continue to voice concern that the procedures may be unfair, in view of the likelihood that secret police records were subject to loss or tampering. In June Parliament agreed on a chairman for the Institute of National Remembrance, creation of which the lustration law mandated in order to organize all communist-era secret police files and eventually give citizens access to information in files compiled on them.

In June 1998, the Constitutional Tribunal ruled unconstitutional a 1997 draft law envisioning the possible removal from service of judges proven to have violated judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. Disciplinary proceedings against the judges in question were to be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or individuals who felt wronged by court verdicts. In December 1998, the Sejm addressed the issue and adopted amendments to the law requiring that procedures against accused judges be initiated before December 31, 2002. The law went into effect in January 1999. According to the National Judiciary Council, at the end of the year, 10 cases had been filed against 13 judges.

Men are not permitted to marry without parental permission until the age of 21, whereas women may marry at the age of 18 (see Section 5).

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government respects these rights; however, there are some marginal restrictions in law and practice. Nonetheless, the press is vigorous and independent.

The Criminal Code states that an individual who "publicly insults or humiliates a constitutional institution of the Republic of Poland" is subject to a fine or imprisonment of up to 2 years, while an individual who insults a public functionary is subject to a fine or imprisonment of up to 1 year. In December 1999, the trial began in Elblag in the case of Andrzej Lepper, who was accused of insulting Prime Minister Jerzy Buzek and state officials in January 1999; the case was still pending at year's end. Prosecutors charge that during a road blockade in Nowy Dwor Gdanski, Lepper called Buzek's cabinet a "government of national betrayal, a government of dilettantes, traitors to Poland." He is said to have called the Prime Minister and another political leader "bandits and criminals." In May the Warsaw district court ruled that the daily newspaper "Zycie" must apologize to President Aleksander Kwasniewski for publishing untrue information suggesting that the President had contacts with Russian spies. However, the court rejected the President's demand that Zycie pay \$0.6 million (2.5 million PLN) in damages in favor of flood victims. The President said he would not appeal the verdict, while Zycie said that it would. This provision of the Criminal Code also can be used by individual citizens and businesses "to protect their good name." In March 1998, Network Twenty One, which sells Amway products, and seven of its employees used the provision to prevent the broadcast, showing, or copying of a 1-hour documentary critical of the company and its practices. The documentary had not been shown by year's end.

The case against talk show host Wojciech Cejrowski, charged with publicly insulting President Kwasniewski, was decided against the defendant in April 1998; it since has been appealed and still was pending decision at year's end. Also pending was a 1995 case against presidential candidate Leszek Bubel for violating a section of the Penal Code that prohibits acts that "publicly insult, ridicule, and deride the Polish nation, the Polish Republic, its political system, or its principal organs." Bubel had claimed publicly that a former head of the

Presidential Chancellery protected a group of criminals.

There was no progress during the year in the ongoing investigation into the case of Mikolaj Siwicki for publishing an allegedly hate-mongering book that could damage the nation's interests.

The Criminal Code also stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term. In 1995 a provincial court charged presidential candidate Leszek Bubel with violating this article by publishing a pamphlet containing anti-Semitic "humor." A verdict on the case was still pending at year's end.

In July 1999, the Warsaw district court revoked the 1998 decision of prosecutors not to start proceedings against the leftist newspaper Trybuna for insulting Pope John Paul II in one of its articles. In 1997 Tadeusz Rydzyk and All-Polish Youth director Roman Giertych, both acting on behalf of the Council for the Coordination of the Defense of the Dignity of Poland and Poles, originally filed charges against Trybuna for its alleged insults of the Pope. In April 1998, the Warsaw prosecutor's office decided to drop the case; subsequently, some 1,500 persons appealed to the Warsaw district court to reopen it. In the wake of the lost lawsuit, Trybuna had to apologize twice for publishing the article. A separate suit against the author was ended when he died, but it appears that the Prosecutor's Office may charge the then editor-in-chief of the paper for having allowed the article to go to press. At least one civil suit related to the Trybuna case was still pending at year's end.

The State Secrets Act allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups criticize this law, since it restricts the right of free speech of private citizens.

The Criminal Code regulates the protection of journalistic sources. The code grants news sources absolute protection, except in cases involving national security, murder, and terrorist acts. Pursuant to the law, statutory provisions are applied retroactively if their terms are beneficial to the accused. Journalists who refused to divulge sources prior to the new code's enactment also can avoid sanctions by invoking "journalistic privilege."

There is no restriction on the establishment of private newspapers or distribution of journals; private newspapers and magazines flourish. There was no progress in the ongoing privatization of RUCH, a national network of newspaper kiosks.

The national radio and television broadcasting council (KRRiTV) has broad powers in monitoring and regulating programming on radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues to public media.

In order to encourage the KRRiTV's apolitical character, the nine KRRiTV members are obliged legally to suspend any membership in political parties or public associations. However, they are chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, thus raising potentially serious questions about the independence of broadcasting oversight from political influence.

The broadcasting law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good. The law, whose constitutionality has been confirmed by the Constitutional Tribunal, requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." This provision has never been used as a means of censorship, although the restrictions theoretically could be used as such.

Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. Private radio flourishes on the local, regional, and national levels alongside public radio.

The Government owns 2 of the 3 most widely-viewed television channels and 17 regional stations, as well as 5 national radio networks. PAP, the national wire service, was privatized partially in 1997, and a five-member supervisory board is preparing the service for full privatization. However, there was no progress at year's end. Although public television remains a major source of news and information, private broadcast television, satellite, and private cable services (domestic and foreign) are available across most of the country. Cable services, available in all major cities, carry the main public channels, two nationwide private networks (Polsat and TVN), as well as local and regional stations and a variety of foreign offerings.

The law on radio and television requires public television to provide direct media access to the main state institutions, including the presidency, "to make presentations or explanations of public policy." The President and the Prime Minister have complained occasionally of the other's abuse of the access privilege. Both public

and private radio and television provide coverage of all ranges of political opinion.

Books expressing a wide range of political and social viewpoints are widely available, as are foreign periodicals and other publications from abroad.

The Internet is widely available and is not regulated.

Academic freedom is respected.

#### b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government respects this right in practice. Permits are not necessary for public meetings but are required for public demonstrations; demonstration organizers must obtain these permits from local authorities if the demonstration might block a public road. For large demonstrations, organizers also are required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the demonstration, preside over it, and close it.

Unlike in 1999, there were no violent clashes between police and demonstrators during the year.

The law provides for freedom of association, and the Government generally respects this right in practice. Private associations need government approval to organize and must register with their district court. The procedure essentially requires the organization to sign a declaration that commits it to abide by the law. However, in practice the procedure is complicated and may be subject to the discretion of the judge in charge.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Citizens enjoy the freedom to practice any faith they choose. Religious groups may organize, select, and train personnel; solicit and receive contributions; publish; and engage in consultations without government interference. There are 15 religious groups in the country whose relationship with the State is governed by specific legislation and 140 other religious communities. The legislation outlines the internal structure of the religious groups, their activities, and procedures for property restitution. There are no government restrictions on establishing and maintaining places of worship. More than 95 percent of Poles are Roman Catholic, but Eastern Orthodox, Greek Catholic, and much smaller Protestant, Jewish, and Muslim congregations meet freely. Although the Constitution provides for the separation of church and state, a crucifix hangs in both the upper and lower houses of Parliament. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church is authorized to relicense radio and television stations to operate on frequencies assigned to the Church, the only body outside the KRRiTV allowed to do so.

Religious communities may register with the Government, but they are not required to do so and may function freely without registration. Registration requires that the group have submitted the names of 100 members as well as information regarding the group itself. This information on membership must be confirmed by a notary public, although the registration itself often appears to be a formality. Four new religious communities were registered during the year. All churches and recognized religious groups share the same privileges, such as duty-free importation of office equipment and reduced taxes.

Although the Constitution gives parents the right to bring up their children in compliance with their own religious and philosophical beliefs, religious education classes continue to be taught in the public schools at public expense. While children are supposed to have the choice between religious instruction and ethics, the Ombudsman's office states that in most schools, ethics courses are not offered due to financial constraints. Catholic Church representatives are employed to teach religious classes in the schools. Such classes constitute the vast majority of all religious education classes offered, since the population of the country is approximately 95 percent Catholic. However, parents can request religious classes in any of the religions legally registered, including Protestant, Orthodox, and Jewish. Such non-Catholic religious instruction exists in practice, although it is not common; the Ministry of Education pays the instructors. Priests receive salaries from the state budget for teaching religion in public schools.

In mid-year the Government announced plans to establish by September, a department within the Ministry of Interior to monitor the activities of "new religious groups" and cults; by year's end, the new department had not yet been formed.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Although the Constitution does not address freedom of movement, the Government does not restrict internal or foreign travel. Citizens who leave the country have no trouble returning. There are no restrictions on emigration.

The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were no reports of the forced repatriation of persons with a valid claim to refugee status. Foreigners recognized as refugees under the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol are granted full refugee status and permission to remain permanently. The Government received 4,519 petitions for refugee status during the year, compared with 2,864 for all of 1999. Including petitions carried over from 1999, 76 have been approved, 2,626 were denied, and 1,206 discontinued or abandoned. The increase from 1999 can be attributed to the marked increase in Chechen refugees. The Government approved 22 Chechens for refugee status prior to August, when they ceased granting approvals for political reasons.

The 1997 Aliens Act addresses immigration issues. Human rights organizations generally view the Aliens Act as positive. The law gives all prospective refugees access to a procedure for adjudicating refugee status and established an independent board to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. Refugee advocates note that the board serves as an impartial and independent adjudicator of appeals. The law does not recognize the concept of first asylum or any other form of temporary protection.

The new Aliens Act would, for the first time, include the category of humanitarian assistance as a reason for re-settling aliens. The Government currently only has categories for asylum seekers and for refugees (for example, those who qualify under the Geneva Convention standards). A new category would be created for those who do not qualify as refugees but who cannot be returned to their countries of origin. Previously the Government had to find creative means of allowing refugees to stay in the country, as the Government did during the Kosovo conflict when they issued 1-year residency permits.

The new Aliens Act would create the Office of Repatriation and Aliens. This office would control the various refugee boards and agencies as well as have some political control over the border guards. The law would also create an expedited system of refugee processing. Aliens would receive an answer to their petition within 2 days. If they were denied, they would be able to appeal to the refugee board, from whom they would receive an answer within 5 days. If their claims were found to be "manifestly unfounded," they would be denied and no further appeal would be available to them. This would represent a significant change from the current system, in which refugees could wait up to 3 months for the first answer and could then appeal all the way to the Supreme Court.

During the year, the Government cooperated with the UNHCR and the Polish NGO Caritas in a program monitoring portions of the country's eastern and western borders from offices in Bialystok and Zgorzelec. The UNHCR reports that the Government has been cooperative as the offices monitor relevant issues such as tracking asylum cases.

The UNHCR reports isolated incidents of the border guards turning away potential refugees, in particular Chechen refugees. In addition UNHCR expressed concern during the year over the fate of unaccompanied children seeking asylum in the country. It urged that procedures and practices concerning the appointment and maintenance of supervisors and guardians for minors be improved.

Many of the problems that the Government faces in dealing with aliens present in the country center around funding. The Government receives significant EU funds for upgrading its refugee processing system, which includes money for such things as fingerprinting equipment and running the refugee centers. However, the Government has very little money available to send aliens who have been denied petitions back to their country of origin (only 20 were returned by air in 1999). Most denied applicants simply receive a letter informing them that their petition has been denied and that they should leave the country. The Government does not have funding to help assimilate those persons who receive permission to permanently reside in the country. The approved petitioners receive funds from various NGO's, but this money covers only basic living needs, and not services such as language training, medical care, or other social benefits.

The country is becoming a destination point for refugees, rather than simply a transit point. The UNHCR reports that significantly fewer persons are abandoning their refugee applications and that fewer persons are leaving the country after receiving status. The National Labor Office also estimates that as many as 200,000 foreigners are working illegally in the country, while the International Organization for Migration (IOM) estimates that some 300,000 irregular migrants are present at any given moment in the country. The IOM also



reports that in recent years, 10,000 to 15,000 foreigners annually have been apprehended crossing the border into the country. Most of the illegal residents come from the countries of the former Soviet Union, although an increasingly larger number are coming from Vietnam, Afghanistan, and Sri Lanka. Poland's relatively strong economic growth and its status as an EU candidate country are mainly responsible for this phenomenon, and illegal and legal immigrants alike can find employment in the country.

The UNHCR has been working with government officials, police, and hospital personnel to sensitize them to the plight of refugees and train them in better ways of handling refugees. As part of this campaign, in September the UNHCR, in conjunction with the domestic NGO Polska Akcja Humanitarska and the entertainment agency 'Alter Art,' hosted a "Refugee Day" in Warsaw that featured bands, food, and entertainment appealing to younger persons.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government peacefully. This right is provided for in the Constitution and exists in practice. All citizens 18 years of age and older have the right to vote and to cast secret ballots, and voting is voluntary. The country is a multiparty democracy. A permanent, democratic Constitution entered into force in 1997. Free and fair presidential elections were held in October. Multiple candidates ran and had access to the media. President Kwasniewski was re-elected to a second (and final) 5-year term in the first round with 53 percent of the vote.

Executive power is divided between the President and a government chosen by the Sejm, or lower house of Parliament. There is also an upper house (the Senate). The Constitution provides for parliamentary elections at least once every 4 years. The President, elected for 5 years, has the right, in certain very limited cases and after seeking the opinion of the Speakers of the Sejm and the Senate, to shorten the Sejm's term of office. Whenever the Sejm's term of office is shortened, the Senate's term automatically is shortened as well. Parliament may impeach the President.

Women are underrepresented in government and politics. Only 13.7 percent of parliamentarians (63 of 460) are women, and presently none of the 19 cabinet ministers is a woman. The Speaker of the Senate is the only female parliamentary leader, and none of the leaders of the nation's largest political parties are women.

Two members of the German minority party are Members of Parliament (M.P.s) (see Section 5). The electoral law exempts ethnic minority parties from the requirement to win 5 percent of the vote nationwide in order to qualify for seats in individual districts.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views.

The Helsinki Foundation, a major NGO, conducts human rights investigations without government interference. Members of the foundation report that the Government displays a generally positive and helpful attitude towards human rights investigations. However, some domestic NGO's believe that a hostile regulatory climate is developing in parts of the government bureaucracy.

The Office of the Commissioner for Civil Rights Protection (the Ombudsman), established in 1987, is the Government's watchdog for human rights. The Ombudsman's office is an effective, independent body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman registers each reported case and files grievances, where appropriate, with the relevant government office. He has no legislative authority and is sworn to act apolitically. The Government cooperates with his office.

### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that "no one shall be discriminated against in political, social, or economic life for any reason whatsoever." The Government attempts to ensure that these provisions are observed; however, violence and societal discrimination against women and ethnic minorities persist.

#### Women

Violence against women continues to be a problem. Women's rights advocates report that unofficial statistics

are similar to those of previous years, although there are no recent comprehensive surveys. Physical abuse is illegal and spousal rape is treated the same as other types of rape. In 1996 some 9 percent of women polled by the Public Opinion Research Center admitted to being beaten repeatedly by their husbands. Women's organizations assert that the number of women suffering from domestic abuse is probably much higher. They explain that battered women usually refuse to admit abuse even to themselves. Violence against women remains hidden, particularly in small towns and villages. Government and police statistics do not differentiate between male and female victims of violence. Police intervene in cases of domestic violence, and husbands can be convicted for beating their wives. In 1998 the police, in cooperation with the State Agency for Solving Alcoholic Problems, introduced the so-called "blue card," a record-keeping system designed to better document incidents of spousal abuse. Sentences for abuse of family members range from 3 months to 5 years, or from 2 to 10 years if the victim attempts suicide as a result of the abuse. However, statistics suggest that a large majority of convictions result in suspended sentences. According to a spokesman for the police, there were 23,147 cases of family abuse reported during the year, with 161 of those being of particularly severe abuse. According to NGO's, the courts often treat domestic violence as a minor crime, pronounce lenient verdicts, or dismiss cases.

According to the Women's Rights Center Report published during the year, there has been significant progress in raising public awareness of the problem of violence against women. The topic received increasing coverage in the media during the year, most notably through a highly visible media campaign. In addition an increasing number of NGO's are addressing the problem. Fifteen centers have been established to assist victims, to provide preventive treatment as well as resocialization counseling to perpetrators, and to train personnel working with victims of domestic violence. As of July 6, an Office of Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration has been established. The main task of the office is to ensure that victims of violence are treated with respect by law enforcement and the judicial system. The office provides legal and psychological assistance for victims and their families.

The law has no provision for restraining orders to protect battered women against further abuse. For example, in divorce cases, courts frequently grant a divorce but do not issue a property settlement, sending the woman back to live with the abusive husband. This problem is exacerbated by a lack of alternative housing in the country. Women's advocacy groups also have complained about the small number of state-supported shelters for battered women.

According to police statistics, the frequency of rape is increasing. During the year, there were 2,399 cases reported, compared with 2,029 in 1999. NGO's report that women often are unwilling to report the crime and estimate that the actual number of rapes is 10 times higher than reported statistics suggest.

Trafficking in women is a serious problem (see Sections 6.c. and 6.f.).

While laws specifically addressing sexual harassment do not exist, social awareness is increasing, as are mechanisms with the potential to deal with the problem. For example, the Criminal Code states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to 3 years in prison. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, between supervisors and subordinates, or between teachers and students. However, this provision can be invoked only when alleged sexual harassment occurs between a supervisor and an individual in a subordinate position. Abuse of power cannot be claimed when harassment occurs between persons of equal rank. In August a prosecutor charged a former director of a hospital emergency ward of sexually harassing six nurses; the case was still pending at year's end. Public discussion of the problem of sexual harassment is relatively new, but women increasingly are talking about the problem and speaking out against it.

The Constitution provides for equal rights regardless of gender and grants women equal rights with men in all areas of family, political, social, and economic life, including equal compensation for work of similar value. However, in practice women frequently are paid less for equivalent work, mainly hold lower level positions, are discharged more quickly, and are less likely to be promoted than men. According to the 1999 government statistical bulletin, men have a higher employment rate (54 percent) than women (45.9 percent), and women have a higher unemployment rate (13.5 percent) than men (11.7 percent). Despite a generally higher level of education, women earn on average 30 percent less than men. In August 1999, the U.N. Human Rights Commission expressed its concern about the situation and agreed that women are discriminated against in the labor market.

Women are employed in a wide variety of professions and occupations, and a number of women occupy high positions in government and in the private sector. Although clauses in social insurance law limit child sick care benefits to women, since June 1999, both men and women have the right to claim child sick care. The pension law passed in late 1998 did not change the mandatory earlier retirement for women at age 60 (65 for men). As a result women get about 60 percent of the average pension that men receive. In December the

Constitutional Tribunal ruled that the law setting retirement age at 60 for women and 65 for men is discriminatory, as it reduces women's chances of promotion and better pensions. Based on this verdict women can appeal to the labor court if employers insist that they retire at 60. The law does not address equality in hiring practices (there are no legal penalties for discriminatory behavior in this area), and advertisements for jobs frequently indicate a gender preference. Although women have access to a number of previously forbidden careers since the Labor Code was modified in 1996, they still are prevented from working underground or in jobs that require heavy lifting. In March 1999, the Parliament failed to approve the proposed law on equal status that would have remedied some of these inequalities. Apart from the Constitution, there is no other legal provision for equal rights for women.

The Ombudsman for Human Rights monitors the rights of women within the broader context of human rights. Observers note that the broad scope of the office's mandate dilutes its ability to function as an effective advocate of women's issues. In 1997 the government Plenipotentiary for Family Affairs within the Cabinet replaced the government Plenipotentiary for Women and the Family, a change that many women's rights groups perceived as an example of discrimination. There are several women's rights NGO's. Among the most notable are the Polish Foundation for Women and Family Planning and the Women's Rights Center. These groups are active advocates of gender equality and advance their goals through research, monitoring, and publishing. There are several church-sponsored women's advocacy organizations, but their cooperation with other women's NGO's is limited.

Women have the same right as men to transmit citizenship to their foreign-born spouses.

#### Children

The Constitution extends some state protection to the family and children and the Sejm appointed an ombudsman for children's rights in June, although he resigned in August. A replacement was being sought at year's end. The Government sponsors some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools. In reality, budget shortfalls prevent complete implementation of these programs. There are no procedures in schools to protect children from abuse by teachers; in fact, the teachers' work code provides legal immunity from prosecution for the use of corporal punishment in classrooms.

Violence against children is illegal. A provision of the Criminal Code threatens those who physically or psychologically abuse a juvenile with a prison sentence of 3 months to 5 years. If the victim attempts suicide the sentence is increased, as it is if the perpetrator is found to have acted with extreme cruelty. Abuse rarely is reported, and convictions for child abuse are even more rare. There is no societal pattern of abuse of children; however, trafficking in children is a problem (see Sections 6.c. and 6.f.).

Young men and women are treated unequally in terms of the age of majority. Men and women reach majority at the age of 18 under the Civil Code. However, a young woman can reach majority at the age of 16 if she has entered into marriage with the consent of her parents and the guardianship court. In addition men are not permitted to marry without parental consent until the age of 21, whereas women may do so at the age of 18 (see Section 1.f.). Lawmakers' rationale for this difference in treatment is the assumption that it is better that men entering compulsory military service not be encumbered with families.

#### People with Disabilities

There were approximately 5.5 million disabled persons in the country by year's end, and the number is expected to reach 6 million by the year 2010. During the year, the Central Bureau of Statistics (GUS) reported that 17 percent of disabled persons able to work are unemployed. Advocacy groups claim that the percentage is much higher. GUS data from 1999 indicate that 48.7 percent of the disabled have no more than an elementary school education, compared with 33.7 percent of those without disabilities, and that only 4.2 percent have a university education, compared with 8.2 percent of the nondisabled.

The Constitution provides for aid to disabled persons "to ensure their subsistence, professional training, and social communication," and a number of laws protect the rights of the disabled. However, implementation falls short of rights set forth in the legislation. Public buildings and transportation generally are not accessible to the disabled. Current law provides only that buildings "should be accessible."

The law creates a state fund for the rehabilitation of the disabled that derives its assets from a tax on employers of over 50 persons, unless 6 percent of the employer's work force are disabled persons. While the fund has adequate resources, its management has encountered difficulties, including frequent changes in leadership. According to press reports, the fund has 4,000 grant applications pending. During the year, the

fund had \$0.4 billion (1.8 billion PLN) at its disposal. Thirty percent of this sum was spent for social rehabilitation and the rest for professional rehabilitation. The fund has branches in all 16 provinces. According to the August 1997 revision of the law on professional and social rehabilitation, 5 to 10 percent of the fund can be used to assist disabled children.

A 1996 law allows individuals from certain disability groups to take up gainful employment without the risk of losing their disability benefits. Previously, disabled individuals from those groups lost their benefits once they began to work.

#### Religious minorities

Current law places Protestant, Catholic, Orthodox, and Jewish communities on the same legal footing, and the Government attempts to address problems that minority religious groups face. Among the most important of these problems is that of property restitution. The laws governing restitution of communal property allow for the return of churches and synagogues, cemeteries, and community headquarters, as well as buildings that were used for other religious, educational, or charitable activities. The laws included time limits for filing claims; in several cases the deadlines have expired, and no additional claims may be filed. Restitution commissions (composed of representatives of the Government and of the affected religious community) are continuing to adjudicate previously filed claims. The Government established four separate commissions to process the claims of the Catholic, Lutheran, and Orthodox Churches, and the Jewish community. A fifth commission to handle the claims of other religious groups became active on September 1.

The Concordat, a treaty regulating relations between the Government and the Vatican, took effect in April 1998.

The time limit for applications by the Catholic Church expired in December 1991. At the end of December, 2,512 of 3,045 claims filed by the Catholic church had been concluded, with 1,184 claims settled by agreement between the church and the party in possession of the property (usually the national or a local government); 859 properties were returned through decisions of the commission on property restitution, which rules on disputed claims; 456 claims were rejected; and 13 cases were expected to go to court. The local Jewish community's deadline for filing claims under the 1997 law expires in 2002. By year's end, 532 had been filed. Of those 532 claims, by year's end the commission on property restitution considered and closed 145 cases; 78 of the 145 cases were closed by an agreement between the parties. As of early in the year, Lutheran claims for 1,200 properties had resulted in 392 cases being closed with the return of the properties in question (the deadline for filing such claims was August 1993). Seventy-four claims were filed by the Orthodox Church, one property has been transferred, and the commission is considering another 20 claims.

Laws on religious communal property do not address the private property of any group, and laws on communal property restitution do not address the issue of communal properties to which third parties now have title, leaving several controversial and complicated cases unresolved. In a number of cases over the years, buildings and residences were built on land that included Jewish cemeteries that were destroyed during or after World War II. For example, a school for disabled children now stands on the site of a completely destroyed Jewish cemetery in Kalisz. The existence of the school complicated the issue of returning the cemetery to the Jewish community. Efforts continued during the year to reach a resolution acceptable to all concerned.

Units set up to monitor new religious movements that are being trained to deal with criminal activities by sects have been criticized by Adventist church leaders, who allege that the "anti-sect" training material gives a distorted picture of minority religions that could lead to discrimination against them.

Relations between the various religious communities are generally amicable, although anti-Semitic feelings persist among certain sectors of the population, occasionally manifesting themselves in acts of vandalism and physical or verbal abuse. It is not always clear that vandalism of graves is anti-Semitic in nature. Surveys in recent years show a continuing decline in anti-Semitic sentiment and avowedly anti-Semitic candidates fare very poorly in elections.

Sporadic and isolated incidents of harassment and violence against Jews continue to occur in the country, often generated by skinheads and other marginal societal groups. Occasional cases of cemetery desecration, including both Jewish and Catholic shrines, also occurred during the year. Government authorities consistently criticized such actions and made efforts to prevent similar acts from occurring in the future, for example, by increasing police patrols around Jewish sites. No arrests or prosecutions took place after any of these events.

In February near Katowice, some 60 graves were desecrated in what apparently was an attempt to steal and sell the stones from the local Catholic cemetery; no one was charged in the case. Later in the month, two

other Catholic cemeteries were desecrated with Satanist graffiti, one near Zamosc and one near Wroclaw. Perpetrators in the case were not found and the investigation was discontinued.

In March hooligans vandalized a monument to martyred priest Jerzy Popielusko; no one was arrested in the case. Also in March, the citizens of Lodz took action of their own accord to clean up anti-Semitic (and other) graffiti in the town. The same evening as the clean-up, vandals spray-painted anti-Semitic and anti-Roma graffiti on the home of Marek Edelman, the last surviving commander of the 1943 Warsaw ghetto uprising. The attack was criticized strongly by both the President and the Prime Minister. The case was investigated, but no perpetrators were identified and the investigation was discontinued.

In April anti-Semitic and anti-Roma graffiti were painted on the Wall of the Jewish cemetery at Oswiecim (Auschwitz). The perpetrators were not caught. The town paid to have the graffiti removed. Also in April, on 2 successive nights, vandals in Krakow painted swastikas and anti-Semitic graffiti on the walls of a local museum, whose site once had housed a pharmacy operated by the only non-Jewish Pole to live in the Krakow ghetto. The pharmacy's owner had received the Israeli "righteous among nations" award for the help he rendered to many Jews during the war. Although the local public housing authorities responsible for maintenance of the property painted over the graffiti the following afternoon, the next evening the vandals wrote anti-Semitic slogans over the fresh paint. The second set of graffiti was painted over the next morning. Local police vowed to step up patrols in the area but no arrests were made by year's end.

Also in April, Satanist graffiti defaced some 20 gravestones in a Catholic cemetery in a village near Poznan. The vandals were never identified. In August a group of eight to nine teenagers armed with clubs attacked a Buddhist center in Krakow. The teenagers assaulted three persons inside the center, one of whom required hospitalization, and broke windows and smashed furniture. Center representatives said the attack was the most serious in a series of incidents--including assaults on Buddhists visiting the center, breaking windows, and threatening graffiti--that began earlier in the year. Although the center has been open since 1991, this is the first year that it became the target of such attacks. The Krakow prosecutor initiated an investigation into the case and two persons have been arrested in relation to the case. The investigation is ongoing and legal proceedings against the arrestees continued at year's end.

The "Pope's Cross," located on the grounds of a former Carmelite convent in Oswiecim adjacent to the Auschwitz concentration camp museum, remained in place at year's end.

In April Opole University fired professor Dariusz Ratajczak for publishing a book denying the Holocaust. The firing followed the unsuccessful prosecution of Ratajczak in December 1999 for violating the law on the preservation of national remembrance, a provision of which criminalizes public denials of Nazi and communist-era crimes. The University announced that Ratajczak had violated ethical standards and would be barred from teaching at other universities for 3 years.

In January 1999, vandals damaged or destroyed 57 gravestones in the Jewish cemetery in Krakow. In May 1999, the cemetery was vandalized again when unidentified perpetrators overturned 30 gravestones and set fire to the main door of the pre-burial house. Perpetrators in these events were not found and the investigation into the cases was discontinued. The local Jewish community now pays for two guards and two guard dogs at the cemetery, where such incidents have ceased.

In July 1999, unknown vandals sprayed swastikas and anti-Semitic graffiti on the Jewish community headquarters in Bielsko-Biala. According to the mayor of Bielsko-Biala, city police officers were ordered to guard the building after the attack and an investigation opened in 1999 into the case was discontinued in 2000. There were no further incidents reported during the year.

In May during the 12th March of the Living from Auschwitz to Birkenau to honor victims of the Holocaust, several hundred Poles joined the Presidents of Israel and Poland as well as some 6,000 marchers from Israel and other countries. This was the largest participation of Polish citizens in the event to date. Government officials participating in the march included M.P.s, the province's governor, and Oswiecim's mayor and city council chairman. Schoolchildren, Boy Scouts, the Polish-Israeli Friendship Society, and the Jewish Students Association of Poland also participated in the march.

Investigations continued into the May 1998 desecration of graves in the Warsaw Jewish cemetery and the July 1998 vandalism of a plaque commemorating Jewish Holocaust victims in Rzeszow. No charges have been filed to date, and the Rzeszow case was still under investigation at year's end.

In September dignitaries from Poland, Israel, the United States, and other countries (including Prince Hassan of Jordan) gathered in Oswiecim (Auschwitz) to commemorate the opening of the refurbished Chevra Lomdei

Mishnayot synagogue and the Auschwitz Jewish Center. The synagogue, the sole synagogue in Oswiecim to survive World War II, and an adjacent Jewish cultural and educational center, provide visitors a place to pray and to learn about the active pre-war Jewish community that once existed in Oswiecim. The synagogue was the first communal property in the country to be returned to the Jewish community after the fall of communism under a 1997 law allowing restitution of Jewish communal property.

On November 11, some 400 persons participated in a demonstration in Katowice officially organized by the No To Europe Association; some of the participants chanted anti-Semitic slogans and burned the EU and Israeli flags. The association's head told prosecutors investigating the case that only some 30 percent of the rally's participants were actual members of his organization.

There is some public concern about the growth of groups perceived to be "sects" and the influence of non-mainstream religious groups, especially in the wake of press reports of the deaths of a few young persons in circumstances suggesting cult activity.

#### National/Racial/Ethnic minorities

The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. There were 5 Lithuanian-language textbooks in use during the year and the number will probably increase to 8 or 9 in 2001. The Ministry of Education fully finances their publication and uses Lithuanian minority representation on development of the texts. The issue of Lithuanian minority rights, including language instruction, is routinely addressed during governmental talks at the highest levels.

The Romani community, numbering around 30,000, faces disproportionately high unemployment and was hit harder by economic changes and restructuring than were ethnic Poles, according to its leaders. The national Government does not discriminate overtly against Roma, though discrimination against Roma is commonplace in society at large and some local officials have been known to discriminate by not providing services in a timely manner or at all. Romani leaders complain of widespread discrimination in employment, housing, banking, the justice system, the media, and education. There have been occasional incidents of skinheads clashing with Roma and racially motivated violence directed at Roma. The central Government is cooperating with local governments to develop and finance programs to assist the poorest Roma. Some local governments are becoming more active in dealing with the problems of local Romani communities. In the southern town of Nowy Sacz, where some of the country's poorest Roma reside, the local government launched a new initiative to improve the lives of the city's Roma. The initiative calls for hiring a special liaison to the Romani community, improving housing and access to utilities (sewers and running water), and expanding educational opportunities for Roma. The Government has also mounted an advertising campaign featuring a famous Polish actor that emphasizes tolerance and friendly attitudes towards foreigners and refugees resident in the country. A November poll showed no significant change in Polish attitudes toward other nationalities. The highest negative attitude is towards Roma and Romanians (64 percent and 63 percent); Russians, Ukrainians and Belarussians (57 percent, 58 percent, 50 percent); and Jews (49 percent).

The small Ukrainian and Belarussian minorities occasionally experience petty harassment and discrimination. Individuals of African, Asian, or Arab descent have experienced verbal or other types of abuse, including physical abuse. In February an African-American woman was kicked at the Czestochowa train station, in what she felt was a racially-motivated attack. In April a group of African-American military personnel visiting Wroclaw in connection with a NATO exercise were singled out for harassment by a group of skinheads. Part of the group was involved in a shoving match outside of a local restaurant, which ended when a larger group of military personnel arrived and the skinheads dispersed. In a second related incident, three of the servicemen were cornered by a group of skinheads carrying bottles who identified themselves as "white racists." In June two African-Americans were verbally harassed by a group of skinheads in Gdansk. They did not respond to the taunts and there was no further incident.

The German minority in Opole province makes up one-third of the 1 million inhabitants of this area of Poland that was part of Germany prior to World War II. Some members of the community complain that not enough German is used in the province's schools and that the minority rights bill will not successfully pass Parliament. However, two members of the German minority party are able to voice such concerns as Members of Parliament (see Section 3).

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides that all workers, including civilian employees of the Armed Forces, police, and frontier guards have the right to establish and join trade unions of their own choosing. The law sets minimum size

requirements for establishing a trade union: 10 persons may form a local union, and 30 may establish a national union. Unions, including interbranch national unions and national interbranch federations, must be registered with the courts. A court decision refusing registration may be appealed to an appeals court. During the year, the number of officially registered national-level unions remained at about 360, about the same as in 1999. No precise data exist on work force unionization, although the trend continues to be downward. Recent studies suggest that only 9 to 10 percent of workers belong to a union. As a rule, newly established small- and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises. The Independent Selfgoverning Trade Union (NSZZ) Solidarity has a verified regular dues-paying membership of about 1 million. Small spin-offs from mainstream Solidarity include the rival factions Solidarity '80, August '80, and the Christian Trade Union Solidarity (Popieluszko). There are no reliable estimates of their membership.

The other principal national unions are those affiliated with the All-Poland Trade Union Alliance (OPZZ), the formerly Communist-aligned confederation established in 1984 as the sole legal alternative to then-outlawed NSZZ Solidarity, and its teachers' affiliate, the Polish Union of Teachers (ZNP). The OPZZ reports that its membership has dropped by more than 50 percent in recent years to about 1.7 million, but this figure is unverified, and independent sociological surveys suggest that its regular dues-paying membership is considerably less than Solidarity's. A recent survey found that Solidarity represents some 7.6 percent of all Polish workers, while the OPZZ represents only 3.6 percent (one estimate put OPZZ membership at roughly 700,000 to 800,000 workers). According to a 1999 study by the State Labor Inspectorate, out of some 27,000 local union organizations, Solidarity had 13,500 organizations, the OPZZ had 11,000 organizations, and Solidarity '80 had 770 organizations.

The law on collective bargaining, in force since 1994, does not require union membership figures to be verified or based on dues-paying members in order for unions to be considered "representative" negotiating partners for management and government. Solidarity protested some unions' (largely OPZZ affiliates) participation in negotiations with the Government on the grounds that their membership figures remain unproved.

Most trade unions were active in politics at all levels. Trade unions are affiliated with political parties and scores of union activists were parliamentarians, and several became senior government officials. Solidarity plays a key role in political life. With 62 deputies, 27 senators, dozens of ministers, governors, and other senior national and local officials, the union serves as the backbone of the ruling AWS coalition. The OPZZ has 42 deputies, about one-quarter of the opposition Democratic Left Alliance (SLD) caucus.

Unions have the right to strike except in "essential services." However, labor leaders complain that the 1991 Act on Collective Dispute Resolution prescribes an overly lengthy process before a strike may be called. Employers consider the law too lenient, since it allows only one-quarter of the work force to vote to call a strike. As a result, as many as 60 to 90 percent of strikes called in recent years have been technically "illegal" because one or both of the sides did not follow each step exactly as required by law. Labor courts act slowly on deciding the legality of strikes, while sanctions against unions for calling illegal strikes, or against employers for provoking them, are minimal. Arbitration is not obligatory and depends on the agreement of disputing parties. Unions allege that laws prohibiting retribution against strikers are not enforced consistently and that fines imposed as punishment are so minimal that they are ineffective sanctions to illegal activity. Workers who strike in accordance with the law retain their right to social insurance but not to pay. However, if a court rules a strike "illegal," workers may lose social benefits, and organizers are liable for damages and may face civil charges and fines. The social partners (unions, employers, and the Government) continued to work out ambiguities in dispute resolution mechanisms in the new Labor Code, which went into effect in 1996, and which represented a major overhaul of communist-era labor regulations.

The number of strikes in the first 6 months of the year remained relatively low and dropped to 6 from 25, compared with the same time period in 1999. There were strikes lasting for a few days in public transportation, health, armaments, and metallurgy sectors. Railroad (PKP) workers struck for a few hours during the year, demanding overdue payments, changes in the privatization process, and protesting layoffs.

In November hundreds of nurses began hunger strikes and protests throughout the country to protest the Government's failure to pay wage increases. In December the Sejm passed a bill giving the nurses a raise. The nurses found the offer unsatisfactory, and the matter was still pending conclusion at year's end.

Unions have the right to join labor federations and confederations and to affiliate with international labor organizations. Independent labor leaders reported that these rights were observed in practice. Solidarity is a full member of the International Confederation of Free Trade Unions, the World Confederation of Labor, and the European Trade Union Confederation.

#### b. The Right to Organize and Bargain Collectively

The 1991 Law on Trade Unions created a favorable environment for trade union activity. However, labor leaders report that the 1991 law has not prevented employers from discriminating against workers who attempt to organize or join unions, particularly in the growing private sector. The law also has not prevented employer harassment of union members for labor activity. The ICFTU alleges that the sanctions provided in the law against acts of antiunion discrimination are not sufficiently dissuasive.

The 1991 law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, in the last resort, to the Supreme Court. In a typical year, Solidarity takes several thousand cases to labor courts, several hundred to the Prosecutor General, and dozens to the Supreme Court for resolution. In an overwhelming majority of these cases, the courts ordered employers to correct practices or reinstate dismissed workers or unions to reimburse employers for activity found to be illegal. However, penalties are minimal and are not an effective deterrent.

Enterprise-level collective bargaining over wages and working conditions increasingly characterized the labor relations system. Labor and management are adapting their relationship to the demands of a market economy, but experience in modern labor relations is still in its early stages. Many enterprises rolled over agreements concluded in earlier years.

Since its formation in early 1994, the Tripartite Commission (unions, employers, and the Government), currently chaired by Labor Minister Longin Komolowski, has become the main forum that determines national-level wage and benefit increases in such politically sensitive areas as the so-called budget sector (health, education, and public employees), while rendering opinions on pension indexation, energy pricing, and other important aspects of social policy. The Commission serves as an important forum in which the social partners air differences, discuss grievances, and often negotiate agreements before problems erupt into social conflict.

Many disputes arose because of the weakness of the employer side of the union/employer/Government triangle. Key state sector employers (largely in heavy industry and the budget sector) still were unable to negotiate independently with organized labor without the extensive involvement of central government ministries to which they are subordinate, although the Government repeatedly stated that its intention was not to be drawn into labor disputes. This weakness complicated and politicized the Government's labor relations system. Claiming that the Government was refusing seriously to discuss labor issues with it, the OPZZ suspended participation in the commission in April 1999 and stayed away all throughout this year.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

Compulsory labor does not exist, except for prisoners convicted of criminal offenses, and otherwise is prohibited by law, including that performed by children. There were no reports of forced or compulsory labor by children.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The law contains strict legal prescriptions about the conditions in which children may work. Education is universal and mandatory until age 18, and public schools are free of charge. The Labor Code forbids the employment of persons under the age of 15. Those between the ages of 15 and 18 may be employed only if they have completed primary school and if the proposed employment constitutes vocational training and is not harmful to their health. The age requirement rises to 18 years if a particular job might pose a health danger.

Child labor is not a problem, although the State Labor Inspectorate reported that increasing numbers of minors now work, and that many employers violate labor rules in employing them (by underpaying workers, paying them late, etc.). Inspectors found violations on stud farms, in restaurants, and, in some instances, in small private sector businesses and factories. Sanctions for illegal employment of children range from warning letters through orders to cease the work of under-age employees. These orders can be enforced through the police to demand the transfer of under-age employees or shut down all or part of the offending workplace, or, working through the Ministry of Labor, to impose fines ranging from \$5 to \$125 (20 to 500 PLN) per offense. Cases may also be referred to an administrative tribunal, which can levy fines of up to \$1,250 (5,000 PLN). Jail sentence may be imposed if the infractions are serious enough; such cases generally involve serious injury or death. In 1999, the last year for which figures are available, the State Labor Inspectorate (PIP) conducted 1,494 investigations involving some 12,000 possible underage employees. Fines were levied in 417 of these cases, amounting to some \$35,000 (140,000 PLN). The number of cases sent to the administrative tribunal were 358.



The law prohibits forced and bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

#### e. Acceptable Conditions of Work

The Ministry of Labor, the unions, and employers' organizations negotiate a revised national minimum wage every 3 months. The minimum monthly wage in state-owned enterprises is approximately \$162.50 (700 PLN), which constitutes no real increase over 1999 figures. This amount was insufficient to provide a worker and family with a decent standard of living in view of rising prices. A large percentage of construction workers and seasonal agricultural laborers from the former Soviet Union earn less than the minimum wage. The large size of the informal economy and the small number of state labor inspectors make enforcement of the minimum wage very difficult. As long as unemployment remains high, workers often agree to inferior working conditions and lower pay in order to find or keep their jobs.

The standard legal workweek is 42 hours, which allows 6- or 7-hour days, including at least one 24-hour rest period. The law requires overtime payment for hours in excess of the standard workweek.

The Labor Code defines minimum conditions for the protection of workers' health and safety. Provisions are strict and extensive, and trade unions have the right to stop production or extract a worker from dangerous working conditions without jeopardizing the worker's continued employment. However, enforcement is a major problem because the Labor Inspectorate is unable to monitor the state sector sufficiently, much less the private sector, where a growing percentage of accidents take place. In addition there is a lack of clarity concerning which government or legislative body has responsibility for enforcing the law. The Labor Inspectorate can shut down workplaces in which it finds unsafe conditions. In 1999, the last year for which figures are available, there were 16 shutdowns of either a part or of a whole workplace.

In the 41,011 work-related accidents reported during the first 6 months of the year, 277 individuals were killed and 602 seriously injured. The Government's Central Statistical Office reported that most accidents were in the public sector, while most serious accidents were in the private sector, where proportionally more deaths also occurred. Solidarity contends that the problem lies not in the law, which establishes safe standards, but in enforcement, because employer sanctions for illegal behavior are minimal. Standards for exposure to chemicals, dust, and noise are exceeded routinely. Workers may remove themselves from dangerous working conditions without losing their jobs, but there were reports that fears of such loss prompted some to stay on the job.

#### f. Trafficking in Persons

Trafficking in women and children is illegal and several specific provisions in the Criminal Code address this issue; however, it remains a problem. The Criminal Code prohibits trafficking in human beings, and pimping, and imposes sentences of up to 10 years on those convicted. It also bans recruiting or luring persons into prostitution; penalties for this offense are also up to 10 years. The most severe sentences are reserved for individuals trafficking in children and those luring women into prostitution abroad. Statutes on trafficking were most recently revised in 1998.

Due to the illicit nature of the activity, it is difficult to estimate the numbers of women who are trafficked. There was an increase in numbers of prosecutions from 1998 to 1999. In 1998 the police reported 70 cases (18 cases of trafficking and 52 of luring women and children into prostitution); in 1999 they reported 184 (8 cases of trafficking and 176 cases of luring women and children into prostitution). It is not clear whether this increase is due to a growth in the number of women trafficked or to greater activity by the Polish authorities. According to a recent press report, road prostitution has doubled since 1998. However, in 1999 there was a police crackdown on highway trafficking and prostitution in response to a letter from the Polish Episcopate to the Prime Minister, and the Polish police report that the crackdown resulted in an estimated 20 percent decrease in such activity. Nonetheless, the international NGO La Strada, which focuses on trafficking in women and girls worldwide, and other sources report that this did not represent an overall decrease in the problem. Rather the activities were moved to secondary roads and agencies. La Strada also estimates that 90 percent of cases handled by Polish prosecutors are the results of deportations from Germany to Poland that are initiated and investigated in Germany. According to La Strada, Polish authorities lack the resources to initiate and investigate cases originating within Poland.

It is particularly difficult to estimate the extent to which children are victims of trafficking. Trafficking in children is reported to be marginal; that which exists appears to be in connection with illegal adoption. Police authorities deal with child traffickers more severely, in part because laws on statutory rape are easier to prosecute. As a result the activity has been driven completely underground. Child prostitution is a crime, while prostitution of adults is neither banned nor regulated by law, making it more difficult for the police to pursue.

The authorities do not always recognize trafficking in children since minors can be trafficked on false documents identifying them as adults. Twenty of the 184 cases initiated by prosecutors in 1999 involved victims who were minors.

Poland is a source, transit, and destination country for trafficked women and girls. Polish women are trafficked into the sex trade to Germany and other Western European countries through such means as fake employment offers, arranged marriages, fraud, and coercive measures. Women and girls are trafficked into Poland primarily from east and south central Europe, where they are recruited from areas with low socioeconomic conditions, sometimes quite openly. Many believe that they are accepting employment as waitresses or maids in the west. While they are en route to what they believe to be their destinations, their passports and identity papers are taken away from them. Stripped of their personal identity, the women and girls are kept under the control of the traffickers through fear and intimidation. They are required to serve a minimum number of clients each day in order to earn their keep. They are threatened with violence, and those who resist are raped or beaten. If they try to flee, their legs may be broken. There are also reports of victims being killed by their traffickers. Since the border guards and police may regard them as criminals who have violated passport laws, the women and girls are afraid to turn to officials for help. They have no legal status and there are no public resources available to assist them. When detained by the police, they may be deported to the border, where they are met by traffickers who quickly provide them with new travel documents and return them to Poland. One official mentioned the case of a Bulgarian woman who had been arrested in Poland four times, each time under a different name. Bulgaria is the largest single source of foreign women trafficked in Poland. Women from Bulgaria tend to be from the Turkish and Roma minorities. There are also significant numbers of women from Ukraine, Belarus, Moldova, and Latvia. Recently there also have been reports of Roma women from Romania who are trafficked on Bulgarian documents. Those women and girls with the lowest socioeconomic status are most vulnerable, and subjected to the worst conditions. For example, Roma and ethnically Turkish Bulgarians tend to be employed on highways. They may spend a few months in Poland before they are trafficked further west. In contrast, women from other countries of Eastern Europe are also trafficked in agencies run as brothels. Educated Polish and Russian women are more likely than others to be employed voluntarily by escort services.

In the last few years, trafficking has become increasingly organized and has been associated with a rampant growth in document fraud. As many as 90 percent of the women and girls trafficked in the country have false travel documents, and the trafficking of a single woman will involve a whole network of criminals. One criminal will recruit the woman; the second will provide false travel documents and traffic her across the border. A third criminal will supervise her work with clients, functioning as a pimp. La Strada reports that last year a large scale "auction" of women was held at a convention of traffickers meeting at a major hotel outside Warsaw. Polish authorities are investigating reports that such auctions occur regularly; one news source indicates that such auctions take place regularly. Prices paid for women and girls who are trafficked reportedly range from \$2,000 to \$4000 (4,000 to 8,000 DM). They are usually trafficked by nationals from the same source country. For example, Bulgarian women are trafficked by Bulgarians and Ukrainians by Ukrainians. Foreign traffickers systematically pay a percentage of their receipts to Polish traffickers operating out of the same region.

[End.]